

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

**LESLIE NICOLE KNIGHT AND  
ALVEZA VALENZUELA, ON BEHALF  
OF THEMSELVES AND ALL OTHERS  
SIMILARLY SITUATED,**

**PLAINTIFFS**

**v.**

**THOMAS JENEBY, MD A/K/A “DR  
BOOM BOOM POW” ET AL.,**

**DEFENDANTS**

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**CA NO. 5:24-cv-1097-XR**

**AGREED SCHEDULING RECOMMENDATIONS**

Plaintiffs Nicole Knight and Alveza Valenzuela (“Plaintiffs”) and Defendants Thomas Jeneby, M.D., The Plastic and Cosmetic Center of South Texas, P.A., Palm Tree Plastic Surgi-center, LLC, Trilogy by Dr. Jeneby, Inc., Advanced Medical Support Services, PLLC, Chrysalis Cosmetic Surgery Center, PLLC, South Texas Aesthetic Training LLC and Shining Palm Tree Series, LLC (“Defendants”) (collectively the “Parties”), recommend that the following deadlines be entered in the scheduling order to control the course of this case:

Plaintiffs filed this case collectively under the Fair Labor Standards Act (“FLSA”). Defendants intend to oppose Plaintiffs’ request that notice issue in this case. As such, the Parties jointly recommend that the following deadlines be entered in a preliminary scheduling order, which shall control discovery concerning whether it is appropriate for notice to issue in this matter, with the Court’s standard scheduling order to be entered once issues regarding notice have been determined.

These recommendations are made in light of the Fifth Circuit’s decision in *Swales v. KLLM Transp. Servs, L.L.C.*, which held that, when managing a putative FLSA collective action, “a

district court should identify, at the outset of the case, what facts and legal considerations will be material to determining whether a group of ‘employees’ is ‘similarly situated’ . . . [a]nd then it should authorize preliminary discovery accordingly.” 895 F.3d 430, 441 (5<sup>th</sup> Cir. 2021).

The Parties believe that future scheduling deadlines will be determined in large part by pre-notice discovery, as well as briefing concerning the appropriateness of granting Plaintiffs’ Motion for Notice. Accordingly, the Parties believe that the most efficient manner to proceed would be to attend to class issues initially (Phase I discovery) and then to submit additional scheduling recommendations once class issues have been resolved (Phase II).

In that regard, the Parties propose that Phase I discovery, limited to the appropriateness of notice issuing in this matter, last **90 days** from the date of the Court’s entry of the corresponding scheduling order.

The Parties further propose that Plaintiffs’ Motion for Notice be filed within **120 days** from the date of the Court’s entry of the corresponding scheduling order, with Defendants’ Response due **21 days** after the date of Plaintiffs’ Motion for Notice, and Plaintiffs’ Reply due **7 days** after the date of Defendant’ Response.

Therefore, the Parties respectfully request that the Court require that the Parties submit additional joint proposed scheduling recommendations, including deadlines for the items in the Court’s form scheduling order, **not later than 15 days after** either (1) the close of the class notice period, if any, or (2) the date the Court denies Plaintiffs’ Motion for Notice.

Respectfully Submitted,

/s/ Josef F. Buenker

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